

SENATE BILL NO. 348
INTRODUCED BY S. GALLUS

A BILL FOR AN ACT ENTITLED: "AN ACT ELIMINATING THE REQUIREMENT FOR THE APPOINTMENT OF AN ATTORNEY FOR A GUARDIAN AD LITEM IN A CHILD ABUSE AND NEGLECT CASE; ALLOWING AN APPOINTMENT FOR A GUARDIAN AD LITEM OR COURT-APPOINTED SPECIAL ADVOCATE WHEN APPROPRIATE; AMENDING SECTION 41-3-425, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 41-3-425, MCA, is amended to read:

"41-3-425. Right to counsel. (1) Any party involved in a petition filed pursuant to 41-3-422 has the right to counsel in all proceedings held pursuant to the petition.

(2) Except as provided in subsection (3), the court shall immediately appoint or have counsel assigned for:

(a) any indigent parent, guardian, or other person having legal custody of a child or youth in a removal, placement, or termination proceeding pursuant to 41-3-422;

(b) any child; or youth; ~~or guardian ad litem~~ involved in a proceeding under a petition filed pursuant to 41-3-422; and

(c) any party entitled to counsel at public expense under the federal Indian Child Welfare Act.

(3) WHEN APPROPRIATE, THE COURT MAY APPOINT OR HAVE COUNSEL ASSIGNED FOR A GUARDIAN AD LITEM OR A COURT-APPOINTED SPECIAL ADVOCATE INVOLVED IN A PROCEEDING UNDER A PETITION FILED PURSUANT TO 41-3-422.

~~(3)(4) Beginning July 1, 2006, the~~ The court's action pursuant to subsection (2) OR (3) must be to order the office of state public defender, provided for in 47-1-201, to immediately assign counsel pursuant to the Montana Public Defender Act, Title 47, chapter 1, pending a determination of eligibility pursuant to 47-1-111."

NEW SECTION. **Section 2. Effective date.** [This act] is effective on passage and approval.

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